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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/813,325	03/30/2004	Frederick Cuffari JR.	35468US1	5123
116	7590	11/15/2004	EXAMINER	
PEARNE & GORDON LLP 1801 EAST 9TH STREET SUITE 1200 CLEVELAND, OH 44114-3108			HUYNH, KHOA D	
			ART UNIT	PAPER NUMBER
			3751	

DATE MAILED: 11/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/813,325

Applicant(s)

CUFFARI ET AL.

Examiner

Khoa D. Huynh

Art Unit

3751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3, 4, 5, 7 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Nutter (4411295).

Regarding claim 1, the Nutter reference discloses an arrangement for moving and filling multiple storage containers. The arrangement is used to fill containers with various kinds of fluids including a pressurized source of fluid (col. 1, lines 10-11). The arrangement includes a movable pallet or rack (26) for receiving the containers. The rack includes ground-engaging movable members (col. 2, lines 66-68; col. 3, lines 11-2). The arrangement also includes a fixed filling station (at 12; also col. 2, lines 66-68) having a plurality of dispensing devices (the filler tubes extending from the supply conduit 120 as schematically shown in Fig. 1), each engagable with a storage container (col. 5, lines 17-19). As schematically shown in Figure 1, the rack and the filling station are arranged such that the rack is movable into proximity with the filling station and is movable away from the filling station, and the dispensing devices are arranged within the filling station such that each container is in proximity to a respective dispensing device when the rack and the filling station are in proximity.

Regarding claim 3, the Nutter reference also discloses that the rack includes locations (col. 5, lines 32-38) for receiving the container such that the containers need not be removed from the rack while the rack is moved into proximity with the filling station.

Regarding claim 4, the Nutter reference discloses that the filling station (at 12) is used for filling containers located on pallets or racks (26). Thus, it is inherent that when the containers on a rack are filled, that rack will be moved, via the operation of the ground-engaging movable members, out of proximity with the filling station to a location relatively distant from the filling station such that a second movable rack may be moved into proximity with the filling station.

Regarding claims 5, 7 and 8, the method as claimed would be inherent during the normal use and operation of the Nutter arrangement.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ver Hage (6684915) in view of Nutter (4411295).

Regarding claim 1, the Ver Hage reference discloses an arrangement for moving and filling multiple storage containers. The arrangement includes a movable rack (40A) for receiving the containers. The arrangement includes a

fixed filling station (Fig. 1) having a plurality of dispensing devices (about 12), each engagable with a storage container via supply lines (26,28). The rack and the filling station are arranged such that the rack is movable into proximity with the filling station and is movable away from the filling station, and the dispensing devices are arranged within the filling station such that each container is in proximity to a respective dispensing device when the rack and the filling station are in proximity (col. 5, lines 15-33).

Even though the Ver Hage reference does not specifically disclose that the rack includes ground-engaging movable members, it would have been obvious to one of ordinary skill in the art to recognize that the ground-engaging movable members could be a person that carries the rack from a storage location to the filling station, a conveyor belt tray feed (col. 5, line 19), or even a dolly stand with wheels (col. 5, lines 54-55), especially since applicant, in his disclosure, admits that the ground-engaging movable members can be of variety of movable mechanisms (applicant's specification, page 6).

The Ver Hage reference also DIFFERS in that it does not specifically disclose that the arrangement is for filling the containers with pressurized containers as claimed. Attention, however, is directed to the Nutter reference which discloses another arrangement which is used to fill containers with various kinds of fluids including a pressurized source of fluid (col. 1, lines 10-11). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the Ver Hage reference by utilizing

it to filling containers with pressurized liquid in view of the teaching of Nutter.

Such modification would be considered a choice of a preferred dispensing fluid on the basis of its suitability for the intended use.

Regarding claim 2, the filling station also includes parts (21) that mate with the parts of the rack when the rack is moved and placed in proximity of the filling station to prevent the displacement of the rack during filling.

Regarding claim 3, as schematically shown in Figure 4 of Ver Hage, the rack includes grids or locations for receiving the container such that the containers need not be removed from the rack while the rack is moved into proximity with the filling station.

Regarding claim 4, the modified Ver Hage reference also discloses a second movable rack (40B) which may be moved into proximity with the filling station when the containers on the first rack (40A) are filled and the first rack is moved out of proximity with the filling station to a location relatively distant from the filling station.

Regarding claims 5, 7 and 8, the method as claimed would be inherent during the normal use and operation of the modified Ver Hage arrangement.

Regarding claims 9 and 11, claims 9 and 11 recite limitations that are similar to those of the claims 1 and 4 which have been rejected as discussed above.

Regarding claims 10 and 12, even though the modified Ver Hage reference does not specifically disclose that the second holding device (40B)

includes a pallet structure as claimed, it would have been obvious to one of ordinary skill in the art to recognize that utilizing a pallet instead of a rack for holding containers is well within one skill in the art since these containers-holding mechanism have been used interchangeably with one another for holding containers, especially since Ver Hage also discloses that a dolly stand with wheels (col. 5, lines 54-55) may be used to place the containers under the dispensing devices.

Regarding claim 13, claim 13 is similar to claim 2 which has been rejected as discussed above.

Regarding claims 14-18, the method as claimed would be inherent during the normal used and operation of the modified Ver Hage arrangement.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Princiotta et al. was cited to show an arrangement including a movable rack and a fixed filling station having a plurality of dispensing devices. Broxell et al. was cited to show an arrangement including a box for holding containers movable on a conveyor and a filling station having a plurality of dispensing devices. Carl was cited to show an arrangement including a tray for holding containers movable on a conveyor and a filling station having a plurality of dispensing devices. Slater et al. was cited to show an arrangement including a movable tray for holding containers and a filling station having a plurality of dispensing devices, wherein the tray and the filling station including parts that mate with each other. Stone was cited to show an

arrangement including a pallet structure with wheels for holding a plurality of container and a filling station having a plurality of dispensing devices.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khoa D. Huynh whose telephone number is (703) 306-5483. The examiner can normally be reached on M-F (7:00-4:30) Second Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on (703) 308-2580. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Khoa D. Huynh
Patent Examiner
Art Unit 3751